



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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February 27, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09023

TO: All County Clerks/Registrars of Voters and Proponents

FROM:


Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1355, Related to Education

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**EDUCATION FUNDING. SALES TAX.
INITIATIVE STATUTE AND
CONSTITUTIONAL AMENDMENT.**

The proponents of the above-named measure are:

Roberta B. Johansen
Karen Getman
Remcho, Johansen, & Purcell, LLP
210 Dolores Ave.
San Leandro, CA 94577

(510) 346-6200

#1355

**EDUCATION FUNDING. SALES TAX.
INITIATIVE STATUTE AND
CONSTITUTIONAL AMENDMENT.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required:694,354
California Constitution, Article II, Section 8(b)
2. Official Summary Date:Friday, 02/27/09
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Friday, 02/27/09
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elec. Codes §§ 336, 9030(a)). Monday, 07/27/09
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elec. Code § 9030(b)).....Thursday, 08/06/09

(If the Proponent files the petition with the county on a date prior to
07/27/09, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties.... Saturday, 08/15/09*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elec. Code § 9030(d)(e)) Tuesday, 09/29/09

* Date varies based on the date of county receipt.

INITIATIVE #1355
Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 08/15/09, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a))Friday, 10/09/09*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). Tuesday, 11/24/09

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 10/09/09, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)..... Saturday, 11/28/09*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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February 27, 2009

Debra Bowen, Secretary of State
Office of the Secretary of State, Elections
1500 11th Street, 5th Floor
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

FILED
In the office of the Secretary of State
of the State of California

FEB 27 2009

Debra Bowen, Secretary of State
By 
Deputy Secretary of State


Re: Initiative 08-0021, "Public School Investment and Accountability Act." (Amdt. #1-S.)
Official Circulating Title: EDUCATION FUNDING. SALES TAX. INITIATIVE STATUTE
AND CONSTITUTIONAL AMENDMENT.

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we mailed our title and summary for Initiative 08-0021, "Public School Investment and Accountability Act." (Amdt. #1-S.) to the respective proponent.

Enclosed is a copy of that title and summary, and a copy of the text of the proposed measure.

Sincerely,



KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

kmp:
Enclosures

Proponent:
Roberta B. Johansen
Karen Getman
Remcho, Johansen, & Purcell, LLP
210 Dolores Ave.
San Leandro, CA 94577

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

EDUCATION FUNDING. SALES TAX. INITIATIVE STATUTE AND CONSTITUTIONAL AMENDMENT. Imposes 1% sales and use tax to supplement current education funding. Requires that 89% of new revenue be used for kindergarten through grade 12 and 11% be used for community colleges. Prohibits transfer or borrowing of funds by Legislature. Authorizes funds for uses including staff development, teacher salaries, student services and programs like art, music, and vocational education. Prohibits use for administrative costs. Excludes revenues from budget and spending limitation calculations. Requires annual independent audits with State Controller review of findings. Authorizes civil or criminal penalties for misuse of funds. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased revenues of \$2.5 billion in 2009-10 and \$5.1 billion annually thereafter from a one-cent per dollar increase in the sales and use tax. Revenues would be dedicated to specific K-12 education and community college programs. Decreased revenues to state and local governments from a reduction in sales-related tax revenues due to decreased overall consumption. The amount of the decreased revenues could be hundreds of millions of dollars annually. (08-0021.)

REMCHO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

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Joseph Remcho (1944-2003)
Robin B. Johansen
Kathleen J. Purcell (Ret.)
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Kari Krogseng

January 5, 2009

08 - 0021

Amdt. #1S

VIA HAND DELIVERY

Office of the Attorney General
1300 "J" Street
Sacramento, CA 95814

Attention: Krystal M. Paris

RECEIVED

JAN 05 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *Public School Investment and Accountability Act*
Initiative No. 08-0021, Amendment #1

Dear Ms. Paris:

Enclosed is a revised copy of the "Public School Investment and Accountability Act," which we filed on December 19, 2008. The revised copy reflects technical edits that clarify, but do not change, the substance of the Act.

Please direct all correspondence and inquiries regarding this revised copy to:

Karen Getman
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201
Email: kgetman@rjp.com

Sincerely,

Roberta B. Johansen

Karen Getman

Enclosure
(00071162)

Public School Investment and Accountability Act – Amendment #1**Section 1: Title.**

This measure shall be known and may be cited as the “Public School Investment and Accountability Act.”

Section 2: Findings and Declaration of Purpose.

1. California is in the midst of an extreme financial crisis. State revenues have plummeted, and with that so has state spending on public education.
2. California’s schools are in trouble. Because of the state budget crisis, education spending in California has been cut by billions of dollars. These budget cuts have left schools with overcrowded classrooms, out of date textbooks, and too few teachers, counselors, and other critical education support staff.
3. California has some of the nation’s highest education standards for kindergarten through 12th grade, with a school accountability system to measure student progress toward those standards. California students and schools deserve adequate resources and support to meet those standards.
4. School funding has been delayed for months on end while Sacramento politicians fight over the state budget. These delays create chaos for local school districts during the school year and make planning nearly impossible.
5. California’s businesses need a well educated workforce. We cannot afford to lose jobs to other states. Yet due to budget cuts, our community colleges may be forced to turn away students who want to learn the skills needed to succeed in the workplace.
6. California has been below the national average in education spending since the early 1980’s, and no end is in sight. Our legislators and governor cannot agree on a solution for new funds and they continue to cut, delay and divert current funds.
7. It is time to provide a stable, independent funding source for schools that cannot be cut by the legislature and governor. cannot be withheld during a budget impasse, and cannot be diverted to other uses.
8. California schools must become more efficient and transparent in spending taxpayer dollars to ensure that education funding is directed toward student learning and focused in the classroom.
9. The annual independent audits required by this measure will ensure that these funds go only to improving classroom education. None of the money can be spent on administrative costs. This measure authorizes civil or criminal penalties for any misuse of the funds.

Section 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting this legislation to be as follows:

1. The primary purpose of this Act is to supplement the total amount of money provided for public education in California.
2. To achieve that purpose, the people declare that all revenues generated by this Act will be used exclusively to fund K-12 schools and community colleges. These revenues cannot be cut, delayed, borrowed or diverted by the legislature and governor. They cannot be used to replace current state funding.
3. It is the intent of the people that the moneys provided for by this Act be subject to strict independent oversight and tough penalties for misuse of the funds.

Section 4. Section 8.6 is added to Article XVI of the California Constitution, to read:

Sec. 8.6. (a) The Public School Investment and Accountability Fund is hereby created in the State Treasury. Moneys in the Fund are held in trust and continuously appropriated, without regard to fiscal year, for the exclusive purpose of providing supplemental state funding to support instructional improvement in school districts and community college districts.

(b) The Controller shall allocate eighty-nine percent (89%) of the moneys in the Public School Investment and Accountability Fund to school districts, and eleven percent (11%) of the moneys to community college districts, in the amounts and manner set forth in subdivision (c).

(c) The Controller shall, on a monthly basis, draw warrants on and distribute the moneys in the Public School Investment and Accountability Fund as follows: from the amounts set aside for school districts, payments shall be made directly to each school district on the basis of an equal amount per unit of average daily attendance, as certified on an annual basis by the Superintendent of Public Instruction; and from the amounts set aside for community college districts, payments shall be made directly to each community college district on the basis of an equal amount per unit of full time equivalent enrolled student, as certified on an annual basis by the Chancellor of the California Community Colleges. This provision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Fund shall not be delayed or otherwise affected by failure of the legislature and governor to enact an annual budget bill pursuant to Section 12 of Article IV. Funds received pursuant to this section shall be available exclusively for the purpose of improving classroom education as required by the Public School Investment and Accountability Act.

(d) Funds transferred and allocated to or from the Public School Investment and Accountability Fund shall not constitute appropriations subject to limitation for purposes of Article XIII B. Moneys in the Public School Investment and Accountability Fund shall not be considered General Fund revenues or proceeds of taxes, and thus shall not be included in the calculations required by Section 8 of this Article, and shall not be subject to the provisions of Section 12 of Article IV or Section 20 of this Article.

(e) As a condition of receiving any moneys pursuant to subdivision (c), each school district and community college district shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as the Public School Investment and Accountability Act account. Each district shall determine how to allocate the funds in that account among the expenditures authorized by the Public School Investment and Accountability Act.

(f) The moneys deposited in the Public School Investment and Accountability Fund shall be used exclusively for the purposes set forth in this section and the Public School Investment and Accountability Act and shall not be used to pay administrative costs. Moneys deposited in the Public School Investment and Accountability Fund shall supplement existing school funding and shall not be used to supplant current state funding for education. Moneys in the Public School Investment and Accountability Fund shall not be transferred or loaned to the General Fund or to any other special fund.

Section 5. Part 9.6 is added to Division 1 of the Education Code, to read:

Part 9.6. Public School Investment and Accountability Act

Section 14702. The funds provided to school districts pursuant to Section 8.6 of Article XVI of the State Constitution shall be expended or encumbered during the fiscal year received exclusively for the purpose of instructional improvement and accountability.

(a) For purposes of this section, "instructional improvement and accountability" shall mean expenditures for school sites that directly benefit the instruction of students, and shall be limited to expenditures for the following:

(1) To reduce class sizes in all grades beyond the levels funded by current state programs with the intent of lowering pupil-teacher ratios until a ratio is attained of 20 students or fewer per teacher providing direct instruction in any classroom serving kindergarten and grades 1 through 3, and 25 or fewer students per teacher providing direct instruction in any grade 4 through 12 class in English language arts, reading, mathematics, science, history, and social science.

(2) To provide instructional supplies, instructional equipment, including computers and technology, instructional materials, and support services necessary to improve school conditions.

(3) To provide direct student services, including school counselors, librarians, and nurses needed to ensure that each student makes academic progress necessary to be promoted to the next appropriate grade level.

(4) To provide staff development that improves services to students or increases the quality and effectiveness of instructional staff, designed and implemented by classroom teachers and other participating school district personnel, including the school principal, with the aid of outside personnel as necessary. Classroom teachers shall comprise the majority of any group designated to design such staff development programs for instructional personnel. Staff development should be based on best practices models appropriate for grade levels and subject matters to serve the needs of students in local districts.

(5) To provide shared planning time for teachers during the school day by grade or subject matter in an effort to create schools where teachers are able to work together and support each other to improve student learning.

(6) To provide all students the opportunity for essential programs like art, music, and career technical and vocational education.

(7) To provide a safe and secure learning environment for public school students and staff.

(8) To provide for compensation of certificated non-management staff and classified non-management staff.

(b) No moneys received pursuant to this Act shall be spent on administrative costs.

(c) Funds received by each school district pursuant to this Act shall be deposited in a separate account and shall be maintained and disbursed separately from funds from all other sources.

14703. The funds provided to community college districts pursuant to Section 8.6 of Article XVI of the State Constitution shall be expended or encumbered during the year received exclusively for the purpose of instructional improvement and accountability.

(a) For purposes of this section, "instructional improvement and accountability" shall mean expenditures for community college sites that directly benefit the instruction of students, and shall be limited to expenditures for the following:

(1) To provide individual assessment and counseling for the purpose of designing a curriculum for each student.

(2) To provide instructional supplies, instructional equipment, instructional materials and support services necessary to improve campus conditions.

(3) To provide faculty development that improves instruction and increases the quality and effectiveness of instructional staff, as mutually determined by faculty and the community college district governing board.

(4) To provide for compensation of faculty and counseling staff.

(b) No moneys received pursuant to this Act shall be spent on administrative costs.

(c) Funds received by each community college district pursuant to this Act shall be deposited in a separate account and shall be maintained and disbursed separately from funds from all other sources.

14704. (a) The Controller shall, on an annual basis, provide for an independent financial audit of the Public School Investment and Accountability Fund to ensure compliance with the requirements of Section 8.6 of Article XVI of the California Constitution, including the requirement that moneys in the Fund supplement and not supplant existing state school funds. The results of that independent audit shall be summarized in an easily understandable report published in a prominent place on the California Department of Education's Internet home page.

(b) The independent financial and compliance audit required of school districts and community college districts shall, in addition to all other requirements of law, ascertain and verify whether the funds provided by the Public School Investment and Accountability Act have been properly disbursed and expended as required by that Act. This requirement shall be added to the audit guide requirements for school districts and community college districts, and shall be part of the audit reports annually reviewed and monitored by the Controller pursuant to Section 14504. Each community college district shall provide to the Controller by June 30 of each year a copy of the audit findings required by this section. The Controller shall make available to the public and the independent auditor required by subdivision (a) the audit findings required by this subdivision.

(c) The results of the district audits required by subdivision (b) shall be summarized in an easily understandable form and added to the school district's yearly accountability report card. Notwithstanding any other provision of law, expenses incurred by districts to comply with the audit and reporting requirements of subdivision (b) may be paid with funds provided by the Public School Investment and Accountability Act and shall not be considered "administrative costs" for purposes of that Act.

(d) Commencing in 2010, the Controller shall annually report to the Superintendent of Public Instruction, the Board of Governors of the California Community Colleges, the Attorney General, and the public, by September 30 of each year, any failure to properly disburse and expend funds in accordance with the

requirements of Section 8.6 of Article XVI of the California Constitution and the Public School Investment and Accountability Act.

(e) The Attorney General shall expeditiously investigate and may seek civil or criminal penalties for any misuse of funds authorized by Section 8.6 of Article XVI and the Public School Investment and Accountability Act.

14705. For purposes of Section 8.6 of Article XVI of the California Constitution, the following definitions apply:

(a) "School districts" means school districts, county offices of education, charter schools, and direct elementary and secondary level instructional services provided by the state.

(b) "Average daily attendance" shall be the sum of the following:

(1) Second principal apportionment regular average daily attendance for kindergarten and grades 1 to 12, inclusive, as defined in subdivision (b) of Section 42238.5, and as adjusted for any average daily attendance audit findings.

(2) Annual average daily attendance for county offices of education, as calculated pursuant to subdivision (c) of Section 41601, and as adjusted for any average daily attendance audit findings.

(3) Any determination or computation of average daily attendance for purposes of this section shall be based upon actual data from the most recent prior year.

Section 6. Section 6051.7 is added to the Revenue and Taxation Code, to read:

6051.7. (a) In addition to any other taxes imposed by this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after January 1, 2010.

(b) Notwithstanding any other provision of this part, all revenues, less refunds, derived from the one percent tax imposed pursuant to subdivision (a) shall be deposited in the State Treasury to the credit of the Public School Investment and Accountability Fund as established by Section 8.6 of Article XVI of the California Constitution.

Section 7. Section 6201.7 is added to the Revenue and Taxation Code, to read:

6201.7. (a) In addition to any other taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after January 1, 2010, at the rate of one percent (1%) of the sales price of the property.

(b) Notwithstanding any other provision of this part, all revenues, less refunds, derived from the one percent tax imposed pursuant to subdivision (a) shall be deposited in the State Treasury to the credit of the Public School Investment and Accountability Fund as established by Section 8.6 of Article XVI of the California Constitution.

Section 8. Severability.

The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Section 9. Conflicting Initiatives.

In the event that this measure and another initiative measure or measures relating to taxation of personal property shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.